

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT
AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE
RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

OCT 31 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,

Appellee,

v.

MARJORIE ANN JACKSON,

Appellant.

2 CA-CR 2007-0184
DEPARTMENT A

MEMORANDUM DECISION

Not for Publication
Rule 111, Rules of
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause Nos. CR200600557 and CR200600688

Honorable Wallace R. Hoggatt, Judge

AFFIRMED

DiCampli, Elsberry & Hunley, LLC
By Anne Elsberry

Tucson
Attorneys for Appellee

P E L A N D E R, Chief Judge.

¶1 Appellant Marjorie Anne Jackson appeals from the trial court's orders revoking her probation in two cases and from the sentences imposed in both. Counsel has filed a brief citing *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz.

530, 2 P.3d 89 (App. 1999), avowing she has reviewed the entire record and found no arguable issue to raise on appeal. Jackson has not filed a supplemental brief.

¶2 Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety. Viewed in the light most favorable to upholding the court’s factual findings, *see State v. Thomas*, 196 Ariz. 312, ¶ 3, 996 P.2d 113, 114 (App. 1999), the evidence established the following.

¶3 Jackson was convicted in March 2007 of one count each of theft of a credit card and forgery of a credit card. She had pled no contest to those charges in accordance with a plea agreement that resolved the charges set forth in two separate indictments.¹ The trial court suspended the imposition of sentence in both cases and placed Jackson on intensive probation for a period of three years. Among the written conditions of her probation were the requirements that Jackson “[o]bey all laws,” refrain from using “illegal drugs, toxic vapors, or controlled substances,” and submit to drug and alcohol testing as directed.

¶4 On April 17, 2007, her supervising probation officer filed petitions to revoke Jackson’s probation on the ground that she had used methamphetamine on three dates in

¹Jackson filed a notice of appeal in each case, Cochise County Superior Court Nos. CR200600557 and CR200600688, and we consolidated those cases for review. During our review, we noted that we had only received the trial court record for CR200600688 and that counsel’s brief had cited only that record. We directed the clerk of the superior court to forward the record in CR200600557 and directed counsel to file an opening brief as to that case when the record was complete. Instead, counsel filed the same brief she had previously filed, with citations only to the record in CR200600688. We have independently reviewed both records, however, and have found no issue in either case that could arguably result in a reversal of the trial court’s orders or require resentencing.

March and April. Based on positive urinalysis results indicating Jackson had used methamphetamine, and on Jackson's own testimony that she had used methamphetamine while on probation, the trial court found Jackson had violated the conditions of her probation. At disposition, the court revoked Jackson's probation and sentenced her to presumptive prison terms of 2.5 years for the credit card forgery and 1.5 years for the credit card theft, to be served concurrently.

¶5 A probation violation may be established by a preponderance of the evidence, Ariz. R. Crim. P. 27.8(b)(3), and we will uphold a trial court's finding of a violation "unless it is arbitrary or unsupported by any theory of evidence." *State v. Moore*, 125 Ariz. 305, 306, 609 P.2d 575, 576 (1980). The court's finding in this case was well-supported by the record, and the presumptive sentences it imposed upon revocation of Jackson's probation were within the range authorized by law. *See* A.R.S. § 13-701(C). Accordingly, we affirm the trial court's finding of a violation, its revocation of Jackson's probation, and the sentences it imposed.

JOHN PELANDER, Chief Judge

CONCURRING:

JOSEPH W. HOWARD, Presiding Judge

J. WILLIAM BRAMMER, JR., Judge